



LOUISIANA PUBLIC DEFENDER BOARD MEMO

To: The Board
From: Jean M. Faria
Re: Report of the State Public Defender
Date: June 18, 2009

LEGISLATIVE UPDATE

Julie has continued to monitor our track of legislative instruments and is reporting to us daily regarding hearings.

Our budget has been preserved in HB 1, with an adjusted line item dedication to the Orleans Public Defenders in the amount of \$70,000.

HB 574 the rocket docket for serious homicides was amended to be statewide and optional. It is now before the governor.

The Children's Bill of Rights was defeated in the House Criminal Justice Committee.

STAFFING AND ADMINISTRATION

After interviewing 7 initial applicants for General Counsel, three were invited to sit for second interviews. Frank Neuner participated in the second interview and an offer of employment was extended to Roger Harris. He has begun closing his practice and will be on board on August 3, 2009.

Chase May joined the staff on June 3, 2009 as the Technical Support Analyst. He is up and running and has already made a significant contribution addressing in-house technical needs.

The third meeting of the District Defender Advisory Council (DDAC) was held on June 16, 2009. Topics on the agenda were: continued discussion of district defender contracts; site visit protocols; the preliminary hearing project, budget training, employment training, capital surveys, the client complaint policy, CLE issues and the ramifications of *Montejo v. Louisiana*.

Mark Falcon has been providing us with employment policies which I am reviewing. Connie Falke has provided me with a rough draft of an employee manual which will soon be finalized.

Staff training has been confirmed for August 6-7, 2009. The Board/Staff training is confirmed for August 28 and 29, 2009 in Baton Rouge. The August Board meeting scheduled for Thursday, August 27, 2009 will be moved to 2:00 p.m. at the same facility as the training. We will need to know from each Board Member whether you will require hotel reservations for the evening of the 27th and 28th.

Business cards for all staff have been received, letterhead/envelopes have been ordered and are due any day, we have designed promotional flier templates and received software to enhance our capability to promote events, and we have subscribed to an e-mail newsletter service that will allow us to send “branded” updates/announcements to e-lists. Finally, the substantive website work is underway with a launch date of August 15, 2009 (2 weeks ahead of schedule).

On the advice of counsel staff requested an ethics opinion about rental of PDO space from private practice office owners. The issue was raised at the DDAC whose members were given the date and time of the Ethics Board hearing. A blast email was then sent to all district defenders to advise them of the hearing as the hearing on this issue affects a number of offices.

The Client Complaint Policy, approved by the Board at the May 28th meeting, was circulated to District Defenders with a request for signed acknowledgment of policies and conditions of circulation their office. We have received acknowledgments back from about a quarter of the districts.

Staff has initiated Continuity Of Operations Plan (COOP) creation including out-of-state contact info for LPDB staff and created off-site emergency email addresses. The preliminary draft contingency plan for our office will be submitted to BJA for their assistance. We will very shortly be notifying all districts of the preparations that they must consider to be appropriately prepared for an emergency.

On June 16, 2009, the Division of Administration Property Planning personnel visited our office to review our application for additional leasing rights. After a very brief look around, they approved our request for additional space and we are pursuing the lease of the entire third floor at 500 Laurel Street. We are anticipating at least 3, and possibly 4 more staff coming on in the next two months. At present, we have no waiting area, no area for interns, no real reception area, and four executive staff are sharing offices.

LITIGATION

11th JDC: The motion for summary judgment filed on behalf the public defender was granted and Steven Thomas is no longer a party. The Louisiana Public Defender Board was never listed as a defendant.

14th JDC: Maureen Dimino from NACDL will be present at the Board meeting to make a short presentation in Executive Session and answer questions from Board members.

15th JDC: The contract was approved by OCR and David Carroll of NLADA was notified the next day. David expects the team to begin their work after the ACCD’s meeting with Attorney General Holder on June 24th. The site visit team expects to schedule their review for early August depending on the district courts’ schedules.

JUVENILE PROJECTS

The juvenile listserv (lajuveniledefenders@njdcclists.info) now has more than 110 members and is one of NJDC’s most active listservs.

Clay attended a trip to San Francisco with Board members Lucy McGough and Majeeda Snead on behalf of MacArthur Foundation Juvenile Indigent Defense Action Network (JIDAN).

One grant has been submitted to JIDAN for \$75,000. The decision regarding this grant is due on June 24, 2009. Another MacArthur grant for \$250,000 is being submitted in July.

BUDGET UPDATE

Marianne and Heather met with the Division of Administration Office of Finance and Support Services (OFSS) personnel concerning questions related to the receiving and accounting of the LCLE grant as well as future grants. They explained our agency's mission and received positive feedback for our goals. Pending final approval from the MacArthur Foundation, we are now poised to manage funds awarded as part of the JIDAN grant in house.

Marianne completed her first meeting to review financial records and internal control procedures of the capital programs. She met with the Baton Rouge Capital Conflict office on June 17, 2009.

Marianne prepared a required representation letter of fund balances as required by LA R.S. 15:155 due to the Governor, Legislative Fiscal Officer and the Legislative Auditor by June 1, 2009 on that same date. This report addressed unexpended monies in the indigent parent representation fund. There were none.

The Budget Committee met on June 10, 2009. Marianne had prepared the Emergency Distribution Procedure that was requested in the prior meeting. The committee made suggestions for revisions and those were made. The committee also made recommendations for the remaining year's fund balance distribution, which will be presented for Board approval on June 25, 2009.

For the Budget Committee, staff conducted a salary survey of all attorneys and their supervisory and support staff for DAF disbursement formula. With this information, Erik Stilling developed the DAF Formula that reflects local cost of living and which includes support and supervisory staff expenditures as Operating Expenses for line attorneys delivering defense services.

Through our interagency agreement with LSU, we awarded all interns their approved stipend.

DATABASE

Erik Stilling has developed auto-prompting "dormancy" status in the database which changes cases more than 6 months with no database activity to "dormant" and not considered an open case until the attorney manually changes the status. This system automatically notifies (via email and pop-up messages upon logging in to the database) the attorneys, their chief and the state compliance officer of these dormant cases and requests notation on why no activity has occurred.

CAPITAL

A capital case subcommittee comprised of Rebecca Hudsmith, Jim Boren and Remy Starns met telephonically to discuss the capital case load and the development capital standards. The subcommittee is staffed by John, Julie and Jean.

The capital surveys were resent to the districts as most defenders did not give them to conflict or court appointed attorneys. Many of the capital defenders did not return their certification information which is a compliance issue.

Anne Gwin has worked tirelessly on gathering the information on outstanding capital expert bills and we are getting close to finalizing the numbers of what has been submitted. There are many outstanding bills for which we cannot find prior approval. Anne has done an outstanding job of creating a system out of the chaos which was capital expert billing. We will be turning our attention in July to a total revamp of the procedures for submitting expert witness requests.

We could easily use an experienced capital lawyer and support person to oversee capital representation in the state.

FIELD MEETINGS AND SITE VISITS

LPDB met with District Defenders, in the field, in eight (8) districts in the period between the date of the last (May) and current (June) State Public Defender reports.

Field Meetings:

22nd JDC: John Di Giulio traveled to Covington, observed court, met with John Simmons, District Defender, and other defense lawyers, and discussed caseloads, data input, pending capital cases, motion practice, and jail lists. 6/2/2009

25th JDC: Heather H. Hall visited Plaquemines Parish to meet with Peter Barbee, Judge Joy Labranno and area service providers in anticipation of the start of their drug court program and the Plaquemines Community Defense Project. 6/9/2009

26th JDC: John Di Giulio visited the 26th JDC and met with Pam Smart, assistant chief, in Benton, as well as some of the administrative staff. John also visited the Webster office in Minden, and met briefly with Mary Ellen Halterman who seems to fill the same role in Webster as does Pam Smart in Bossier. John reviewed data entry, trial practice, policies for discovery, docket calendars and met with the Clerk of Court. 5/22/2009.

31st JDC: John Di Giulio traveled to Jennings to meet the district defender but was unable to meet with judges or DAs as they were attending bar convention. 6/11/2009

32nd JDC: Julie Kilborn and Erik Stilling visited the 32nd JDC Public Defender Office and met with several attorneys and office staff to discuss the current statewide database system in an ongoing effort to improve the system and ensure reliability and uniformity of the data collected. This is the first visit of 20 site visits to get feedback on database needs/improvements. 6/16/2009

33rd JDC: John Di Giulio went to Oberlin in the 33rd and met with District Defender David Deshotels, to discuss caseloads, data entry, office rent and expenses, as well as preliminary hearings. 6/11/2009.

34th JDC: John Di Giulio and Jean M. Faria, went to Chalmette in the 34th to discuss compliance problems with the District Defender and procure the return of funds improperly paid as a result of failure to file audit reports. 6/8/2009

41st JDC: John Di Giulio, Jean M. Faria and Frank Neuner met in New Orleans with District Attorney Leon Cannizzaro to discuss opening lines of communication and other mutual concerns. 6/9/2009

41st JDC: Heather H. Hall spent 6 hours with the Orleans Public Defenders' Defender Services Program in the office and in court to watch the interaction of the social worker division with attorneys and other district court personnel. 6/18/2009

TRAINING

From May 29 – June 3, Julie attended National Defender Training Project, a 7-day litigation skills based course in Dayton, OH where she participated as a faculty member.

Julie, Erik and Chase have been doing database training in the following districts, 32nd (Terrebonne), at JRS in New Orleans, the 26th (Bossier), 17th (Lafourche), 40th (St. John). For the month of July, they have trainings scheduled in the 1st (Caddo), 11th (Sabine) 39th, (Red River), 42nd (DeSoto), 29th (St. Charles) and the 14th (Calcasieu).

The agenda and faculty for the first two regional juvenile trainings has been verified. The Southwest Louisiana Regional Juvenile Training will be held in Lake Charles on August 13, 2009. The Northeast Louisiana Regional Juvenile Training will be held in Monroe on August 14, 2009. Both events are free and open to all (though there are attendance caps). Heather H. Hall is the point person for this project.

Juvenile Regionalized Services is hosting training in New Orleans July 6-10. This training is open to juvenile defenders in all MacArthur sites. Clay Walker is faculty for this training.

For the District Defenders two employment law trainings have been scheduled for September 9 and 16 as well as three budget trainings on August 11, September 2 and 3, 2009 in three different regions of the state.

PROJECTS/PROGRAMS

Plaquemines Community Defense Project: The Plaquemines Community Defense Project (a project of the Louisiana Justice Coalition) has hired a one-year "Client Advocate", starting August 1, 2009 and is currently advertising for a licensed social worker in local outlets. The Social Worker and Client Advocate will work with attorneys to provide professional, intensive, and therapeutic social work services to indigent clients represented by the Office of the Public Defender through an assessment of client needs and the provision of local services at all phases of the criminal justice process including pre- and post-conviction. A hiring committee of Peter

Barbee, Sophia Sarantakos, Heather H. Hall and Celeste Lofton-Bagert will be reviewing applications next week.

R.E.D. S.T.I.C.C: On June 3rd, Heather attended the second meeting of Project RED STICC (Reduction and Eradication of Delinquency through Systemic Truancy Intervention Combating Crime), convened by EBR President-Mayor Kip Holden and District Attorney Hillar Moore. This program is an invitation-only consortium that is meeting to develop and implement to strategies that address truancy, drop-out rates and other behavior that interferes with juveniles' ability to become productive, healthy members of our community. We have reached out to the East Baton Rouge District Attorney's Office, who is currently coordinating this project, to become part of the core planning committee.

Preliminary Hearing Project: As a byproduct of our aggressive outreach schedule to district offices, John Di Giulio identified preliminary hearings as an area for LPDB to increase their support/guidance to the field. A questionnaire about preliminary hearing practice was circulated to all district defenders in early June and almost all districts have responded. LPDB is working to analyze this data and create policies, best practice guides for the field in this area of defense practice.

GRANTS/OPPORTUNITIES:

Capital Case Litigation Initiative Grant: An application in the amount of \$250,000 was submitted to the Bureau of Justice Assistance to conduct five capital trainings over 24 months. Two trainings will be for defenders, two for prosecutors, and one training will be a joint training. \$50,000 of this award will be used to create staff capacity at LPDB to administer this grant. Richard Bourke assisted significantly on the development of this grant proposal.

LPDB submitted a competitive RFP to present a workshop at the Equal Justice Works Career Fair in Washington, DC on October 23-24. This is a recruiting opportunity. We will know if we have been offered this opportunity by July 6, 2009.

SCHOLARSHIPS:

LPDB created and circulated scholarship applications for the Southern Public Defender Training Center and awarded three scholarships in the 1st, 28th and 40th JDC.

LPDB obtained a budget of \$2,350 for 10 LACDL (\$235 each) scholarships for the capital certification seminar. We created scholarship applications and circulated them to the field – they are due back June 26, 2009.